

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE

COOPER LEVENSON APRIL NIEDELMAN & WAGENHEIM, P.A.

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Atlantic City, NJ 08401

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File No. 51154.22

Attorney for Defendant, Marina District Development Company, LLC d/b/a Borgata Hotel
Casino & Spa

JOHAN DANIYAN,

: NO. 07-cv-02734 (JHR)(JS)

Plaintiff :

vs. :

Civil Action

BORGATA HOTEL CASINO,

Defendant. :

**PROPOSED PRELIMINARY
JURY CHARGE
WORKMENS' COMPENSATION
RETALIATION**

In this case Mr. Daniyan claims that Borgata retaliated against him for filing a workmens' compensation claim. New Jersey law provides that an employer may not retaliate against an employee for making or attempting to make a claim for workmens' compensation.

To prevail on this claim, Mr. Daniyan must prove all of the following by a preponderance of the evidence:

First: Mr. Daniyan must prove that he made or attempted to make a claim for workmens' compensation.

Second: Mr. Daniyan must prove that he was retaliated against for making that claim.

Galante v. Sandoz, Inc., 192 N.J. Super 403. 4192 N.J. Super 403, 407; 470 A.2d 45 (LawDiv. 1983)

Timing alone cannot establish that an employee was retaliated against for filing a workmens' compensation claim. *Morris v. Siemens Components, Inc.*, 908 F.Supp. 486, 493 (D.N.J. 1996)

By: 

NANCY A. VALENTINO, ESQUIRE

Attorney for Defendant, Marina

District Development Company,

LLC d/b/a Borgata Hotel Casino & Spa

Dated: JANUARY 3, 2011

CLAC: 510767.1